THE HONOURABLE SRI JUSTICE V.ESWARAIAH

Date:21-02-2006

WRIT PETITION No. 3191 OF 2006

BETWEEN:

Pasupuleti Kanaka Durga.

…Petitioner

And

The Commissioner, Eluru Municipal Corporation, Eluru, West Godavari District.

…Respondent.

ORDER:

The petitioner seeks to issue a writ of mandamus, declaring the action of the respondent in proceeding to demolish the house bearing Door Nos.22C-9-3 and 22C-11-17, situated at Badetivari Street, 43rd Division, Eluru, West Godavari District without following the due process of law as illegal, arbitrary and unconstitutional.

The petitioner submits that she is the tenant of a tiled house bearing door Nos.22C-9-3 and 22C-11-17, situated at Badetivari Street, Eluru, West Godavari District and the said house belongs to one Balla Venkat Rao. It is stated that when the said owner started interfering with her possession and enjoyment over the said house, she filed a suit O.S.No.1306 of 2005 on the file of the Principal Junior Civil Judge, Eluru and obtained interim injunction order. It is further stated that the respondent corporation is trying to demolish the said house at the instance of the house owner.

Heard the learned counsel appearing for the petitioner as well as the learned standing counsel appearing for the respondent.

The owner of the house was not made as party to this writ petition. Even if the house is in dilapidated and precarious condition, the respondent cannot pull down the said house without issuing any notice to the owner or occupier. But, without impleading the owner and without there being any notice, this writ petition is filed only on the apprehension of demolition. Therefore, the writ petition is not maintainable without impleading the real owner and without there being any cause of action.

The writ petition is dismissed accordingly. No order as to costs.

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V.ESWARAIAH, J

Date: 21-02-2006.

Shr.